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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,801	11/13/2003	Michael Alan Massey	MMASS.0001	4472

7590 04/27/2006

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EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,801

Applicant(s)

MASSEY, MICHAEL ALAN

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

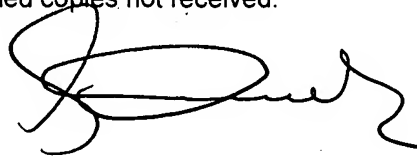
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

 Primary

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claims 1, 2, 6, 22-24 and 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin.

Lin disclose a device comprising a resilient ball, two length of resilient arms/cords (31, 32).

The method of claims 22-24 and 26-32 is disclosed in the specification of Lin.

In regard to claims 15 and 16 the examiner is considering elements 313 and 323 as fixtures that permit use of a users feet, said fixtures being removable.

Claims 1, 13, 14 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang.

See figs. 1 and 4.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 9-13, 17, 19-24 and 26-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Strong et al.

Strong et al discloses a device comprising a comfortable base, two removable latex elastic cords 8, said cords capable of providing multiple levels of resistance, said base being inflatable.

The method of claims 22-24 and 26-31 is disclosed in the device shown in fig. 6 and 7, the summary of the invention and the body of the specification.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Orcutt.

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Orcutt discloses a ball (resilient) having at least one arm and said arm having embodiments of varying strength (see col. 3 lines 10-24).

In regard to claims 6-8 note Orcutt col. 3 line 10-24.

The method of claims 22 and 24 is disclosed by Orcutt col. 3, lines 10-24 in conjunction with the disclosure of the specification.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'J. Donnelly', written over the printed name and title.

Jerome Donnelly